

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Victor Tagle, Sr.,

Plaintiff

v.

State of Nevada,

Defendant

Case No.: 2:18-cv-02152-JAD-PAL

**Order Adopting Report
and Recommendation and
Dismissing and Closing Case**

[ECF Nos. 1, 3, 4]

Pro se plaintiff Victor Tagle, Sr. is a prisoner in the custody of the Nevada Department of Corrections and a frequent filer in this district.¹ Because of his rich history of frivolous lawsuits, Tagle must prepay the \$400 filing fee to pursue a new action, or he must demonstrate that he is “under imminent danger of serious physical injury” to be granted pauper status.² So, in considering his newest pauper application, Magistrate Judge Leen reviewed Tagle’s initiating document to determine whether he has demonstrated that imminent danger. In doing so, she concluded not only that Tagle has failed to make that demonstration, but that his claims should be dismissed as frivolous.³

Tagle claims he is trying to file a “Tort Bivens Action” against the State of Nevada “CPS/DFS” and court personnel for events he claims occurred in connection with a Nevada family-court matter involving his children.⁴ He alleges that personnel from the department of family services/child protective services abducted, abused, endangered, forcibly medicated, and

¹ See ECF No. 3 at 1 (listing just a few of his actions).

² 28 U.S.C. § 1915(g).

³ ECF No. 3.

⁴ ECF No. 1-1.

1 experimented on his children without legal authorization.”⁵ The magistrate judge notes in her
2 report and recommendation that “Tagle has filed several previous complaints making similar
3 allegations regarding the mistreatment of his children by personnel from the department of
4 family services/child protective services” and that his “prior cases were dismissed as duplicative,
5 lacking standing and subject[-]matter jurisdiction, and failing to state an actionable claim.”⁶
6 Because “[a] complaint may be dismissed as frivolous if it ‘merely repeats pending or previously
7 litigated claims,’” she recommends that I dismiss this action “as it largely repeats allegations
8 courts in this district have previously dismissed” and because it “fails to state a proper
9 jurisdictional basis and alleging additional facts would not cure” that deficiency, making
10 amendment futile.⁷

11 Tagle objects.⁸ But his objection does not resolve the deficiencies identified in the report
12 and recommendation. So, after a de novo review,⁹ I dismiss this action without prejudice but
13 without leave to amend as duplicative and because it fails to state a proper jurisdictional basis.¹⁰
14 Accordingly,

15 IT IS HEREBY ORDERED that the Magistrate Judge’s Report and Recommendation
16 [ECF No. 3] is **ADOPTED** in its entirety, and Tagle’s objections [ECF No. 4] are
17 **OVERRULED**. Tagle’s application to proceed in forma pauperis [ECF No. 1] is **DENIED** as
18 moot.

20 ⁵ *Id.*

21 ⁶ ECF No. 3 at 2–3.

22 ⁷ *Id.* at 3.

23 ⁸ ECF No. 4.

⁹ See LR IB 3-2(b); 28 U.S.C. § 636(b)(1)(B).

¹⁰ *Neitzke v. Williams*, 490 U.S. 319, 327–28 (1989).

1 IT IS FURTHER ORDERED that this action is DISMISSED without prejudice as
2 duplicative and because it fails to state a proper jurisdictional basis. The Clerk of Court is
3 directed to ENTER JUDGMENT accordingly and CLOSE THIS CASE.

4 Dated: February 5, 2019

5 
U.S. District Judge Jennifer A. Dorsey